

HOUSE BILL No. 1375

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-38.

Synopsis: Judges pensions. Authorizes under certain conditions a participant in the judges' retirement system (system) to purchase up to two years of service credit for active duty in the United States armed forces. Authorizes a participant to elect to receive a decreased retirement benefit during the participant's lifetime with a benefit payable after the participant's death to a designated beneficiary during the lifetime of the beneficiary that is equal to 2/3 or 1/2 of the participant's benefit. Permits under certain conditions a participant who has started receiving retirement benefits after electing the joint and survivor option to change the designated beneficiary and receive an actuarially adjusted and recalculated benefit. Authorizes a participant with at least eight years of creditable service who is also vested in the public employees' retirement fund (PERF) to elect to use not more than ten years of PERF service credit to qualify for a retirement benefit from the system and waive the right to a retirement benefit from PERF. Provides that the PERF service credit may not be used to compute the participant's retirement benefit from the system.

Effective: July 1, 2008.

Buell, Niezgodski

January 16, 2008, read first time and referred to Committee on Labor and Employment.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1375

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-38-6-28 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 28. (a) This section applies to a participant who earns**
4 **service credit in the fund after June 30, 2008.**

5 **(b) A participant may purchase not more than two (2) years of**
6 **service credit for the participant's service on active duty in the**
7 **armed services of the United States if the participant meets the**
8 **following conditions:**

9 **(1) The participant has at least one (1) year of credited service**
10 **in the fund.**

11 **(2) The participant serves on active duty in the armed services**
12 **of the United States for at least six (6) months.**

13 **(3) The participant receives an honorable discharge from the**
14 **armed services.**

15 **(4) Before the participant applies to receive a retirement**
16 **benefit, the participant makes contributions to the fund as**
17 **follows:**



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(A) Contributions that are equal to the product of the following:

(i) The participant's salary at the time the participant actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the participant at the time the participant actually makes a contribution for service credit and is computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant.

(c) A participant must earn at least eight (8) years of credited service in the fund before a participant may receive a benefit based on service credits purchased under this section.

(d) A participant may not receive service credit under this section if the military service for which the participant requests credit also qualifies the participant for a benefit in another retirement system.

(e) A participant who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(f) The following apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments are to be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for

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purposes of determining eligibility or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(g) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(i) Notwithstanding any provision in this section, a participant is entitled to service credit and benefits in the amount and to the extent required by section 15(c) of this chapter.

SECTION 2. IC 33-38-7-11, AS AMENDED BY P.L.28-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) A participant whose employment as judge is terminated, regardless of cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date the annuity begins is not:

(A) before the date of final termination of employment by the participant; or

(B) the date thirty (30) days before the receipt of the participant's written application by the board.

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(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight

(8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

(c) A participant:

(1) who:

(A) elects to accept retirement after June 30, 1977; and

(B) is at least sixty-five (65) years of age; or

(2) who:

(A) elects to accept retirement after June 30, 1999;

(B) is at least fifty-five (55) years of age; and

(C) meets the requirements under subsection (b)(2)(B);

is entitled to an annual retirement benefit as calculated in subsection (d).

(d) The annual retirement benefit for a participant who meets the requirements of subsection (c) equals the product of:

(1) the salary being paid for the office that the participant held at the time of the participant's separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%

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1	21	59%
2	22 or more	60%

3 If a participant has a partial year of service in addition to at least eight
4 (8) full years of service, an additional percentage shall be calculated by
5 prorating between the applicable percentages, based on the number of
6 months in the partial year of service. A participant who elects to accept
7 retirement before July 1, 1977, is entitled to an annual retirement
8 benefit that equals the average of the benefit computed under this
9 subsection and the benefit the participant would have received under
10 IC 33-38-6 as in effect on June 30, 1977. **A participant who applies**
11 **to receive an annual retirement benefit after June 30, 2008, may**
12 **elect to receive a benefit computed under section 11.5 of this**
13 **chapter instead of this subsection.**

14 (e) If the annual retirement benefit of a participant who began
15 service as a judge before July 1, 1977, as computed under subsection
16 (d), is less than the amount the participant would have received under
17 IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to
18 receive the greater amount as the participant's annual retirement benefit
19 instead of the benefit computed under subsection (d).

20 (f) Except as provided in subsections (b)(2)(B) and (d), if a
21 participant who elects to accept retirement after June 30, 1977, has not
22 attained sixty-five (65) years of age, the participant is entitled to
23 receive a reduced annual retirement benefit that equals the benefit that
24 would be payable if the participant were sixty-five (65) years of age
25 reduced by one-tenth percent (0.1%) for each month that the
26 participant's age at retirement precedes the participant's sixty-fifth
27 birthday. This reduction does not apply to:

- 28 (1) participants who are separated from service because of
- 29 permanent disability;
- 30 (2) survivors of participants who die while in service after August
- 31 1, 1992; or
- 32 (3) survivors of participants who die while not in service but
- 33 while entitled to a future benefit.

34 **A participant who applies to receive an annual retirement benefit**
35 **after June 30, 2008, may elect to receive a benefit computed under**
36 **section 11.5 of this chapter instead of this subsection.**

37 (g) A participant who is permanently disabled is entitled to an
38 annual benefit equal to the product of:

- 39 (1) the salary being paid for the office that the participant held at
- 40 the time of separation from service; multiplied by
- 41 (2) the percentage prescribed in the following table:

42 TABLE B

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Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. **A participant who applies to receive an annual retirement benefit after June 30, 2008, may elect to receive a benefit computed under section 11.5 of this chapter instead of this subsection.**

(h) **This subsection does not apply to the survivors of a participant who elected to receive a benefit computed under section 11.5 of this chapter.** The surviving spouse or surviving child or children, as designated by the participant, of a participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

(A) two thousand dollars (\$2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000

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July 1, 1997, and

thereafter

\$12,000

(i) **This subsection does not apply to the surviving spouse of a participant who elected to receive a benefit computed under section 11.5 of this chapter.** If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled to an annuity in an amount equal to the greater of:

- (1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or
- (2) the amount determined under TABLE C in subsection (h)(2).

(j) **This subsection does not apply to the surviving spouse of a participant who elected to receive a benefit computed under section 11.5 of this chapter.** If a participant:

- (1) dies after June 30, 1983; and
- (2) on the date of the participant's death:
 - (A) was receiving benefits under this chapter;
 - (B) had completed at least eight (8) years of service and was in service as a judge;
 - (C) was permanently disabled; or
 - (D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (h)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (f).

(k) Notwithstanding subsection (j), if a participant:

- (1) died after June 30, 1983, and before July 1, 1985; and
- (2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection (i).

(l) The annuity payable to a surviving child or children under

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subsection (h), (i), or (j), is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the surviving spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 3. IC 33-38-7-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.**

(b) Instead of the benefit computed under section 11(d), 11(f), or 11(g) of this chapter, whichever is applicable, a participant who applies to receive an annual retirement benefit after June 30, 2008, may elect to receive a decreased benefit during the participant's lifetime with a benefit payable after the participant's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the participant's option, either a full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that

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benefit.

(c) The amount of the benefit computed under subsection (b) shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under section 11(d), 11(f), or 11(g) of this chapter, whichever is applicable.

(d) If the participant dies before the participant begins receiving a retirement benefit under this chapter, the designated beneficiary receives the amount, if any, to which the designated beneficiary is entitled as a surviving spouse or child under section 11(h), 11(i), or 11(j) of this chapter, whichever is applicable.

(e) If the designated beneficiary dies before the participant begins receiving a retirement benefit under this chapter, the election is automatically canceled and the participant's retirement benefit shall be computed under section 11(d), 11(f), or 11(g) of this chapter, whichever is applicable.

(f) Subject to subsection (k), if a participant is receiving a benefit under this section and:

- (1) the participant's designated beneficiary dies;
- (2) the participant and the participant's designated beneficiary are parties in an action for dissolution of marriage in which a final order is issued after the participant's first benefit payment is made; or
- (3) the participant marries after the participant's first benefit payment is made, and the participant's designated beneficiary is not the participant's current spouse;

the participant may make the election described in subsection (g).

(g) A participant described in subsection (f) may elect to:

- (1) change the participant's designated beneficiary; and
- (2) receive an actuarially adjusted and recalculated benefit for the remainder of the participant's life and the life of the newly designated beneficiary.

(h) A participant who makes the election described in subsection (g) must indicate whether the newly designated beneficiary's benefit will equal:

- (1) the participant's full recalculated benefit;
- (2) two-thirds ($2/3$) of the participant's recalculated benefit;
- or
- (3) one-half ($1/2$) of the participant's recalculated benefit.

(i) The participant bears the cost of recalculating a benefit under subsection (g), and the cost shall be included in the actuarial adjustment.

(j) Benefits may be recalculated under subsection (g) only to the

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1 extent permitted by the Internal Revenue Code and applicable
2 regulations.

3 (k) A participant may not make an election under subsection (f)
4 if a final order or property settlement in an action for dissolution
5 of marriage:

6 (1) prohibits a change in the participant's designated
7 beneficiary; or

8 (2) provides a right to a survivor benefit to a person who
9 would be removed as the designated beneficiary.

10 (l) Except as provided in subsection (f), a participant who:

11 (1) applies to receive an annual retirement benefit after June
12 30, 2008; and

13 (2) elects to receive a benefit computed under this section;
14 may not change the beneficiary designated by the participant after
15 the first day on the month in which the benefit payments are
16 scheduled to begin. For purposes of this subsection, it is immaterial
17 whether a benefit check has been sent, received, or negotiated.

18 SECTION 4. IC 33-38-7-20 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2008]: Sec. 20. (a) As used in this section, "retirement fund"
21 refers to the public employees' retirement fund established by
22 IC 5-10.3-2-1.

23 (b) This section applies only to a person who:

24 (1) is a judge participating under this chapter;

25 (2) before becoming a judge was employed in a position that
26 resulted in the person being a member of the retirement fund;

27 (3) received credited service in the retirement fund for the
28 employment described in subdivision (2), and the credited
29 service is not eligible for service credit under section 18 or 19
30 of this chapter;

31 (4) has attained vested status in the retirement fund for the
32 employment described in subdivision (2), but has not begun
33 receiving a benefit from the retirement fund; and

34 (5) has at least eight (8) years of service credit in the judges'
35 retirement system.

36 (c) If a person becomes a participant in the judges' 1977 benefit
37 system under this chapter, the person may elect credit for the
38 service described in subsection (b)(3) solely for the purpose of
39 meeting the age plus years of service requirement described in
40 section 11(b)(2)(B) of this chapter, if the following conditions are
41 met:

42 (1) The prior service was credited under the retirement fund.

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1 (2) The maximum amount of service that a person may elect
2 to transfer under this section is ten (10) years.
3 (3) The person waives the right to a retirement benefit from
4 the retirement fund based on the service transferred under
5 this section.
6 (d) If a participant makes an election under subsection (c), the
7 board shall transfer from the retirement fund to the judges' 1977
8 benefit system the amount credited to the participant's annuity
9 savings account and the present value of the retirement benefit
10 payable at sixty-five (65) years of age that is attributable to the
11 participant.
12 (e) The service for which an election is made under this section
13 may not be used as years of service for the purpose of computing
14 a participant's retirement benefit under section 11(d), 11(f), or
15 11(g) of this chapter.
16 SECTION 5. IC 33-38-8-14 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Benefits
18 provided under this section are subject to IC 33-38-6-13 and section 20
19 of this chapter.
20 (b) A participant who:
21 (1) applies for a retirement benefit; and
22 (2) is at least:
23 (A) sixty-five (65) years of age; or
24 (B) fifty-five (55) years of age and meets the requirements
25 under section 13(2)(B) of this chapter;
26 is entitled to an annual retirement benefit as calculated in subsection
27 (c), **except that a participant who applies to receive an annual**
28 **retirement benefit after June 30, 2008, may elect to receive a**
29 **benefit computed under section 16.5 of this chapter instead of this**
30 **subsection.**
31 (c) The annual retirement benefit for a participant who meets the
32 requirements of subsection (b) **and does not elect to receive a benefit**
33 **computed under section 16.5 of this chapter** equals the product of:
34 (1) the salary that was paid to the participant at the time of
35 separation from service; multiplied by
36 (2) the percentage prescribed in the following table:
37 Participant's Years Percentage
38 of Service
39 8 24%
40 9 27%
41 10 30%
42 11 33%

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1	12	50%
2	13	51%
3	14	52%
4	15	53%
5	16	54%
6	17	55%
7	18	56%
8	19	57%
9	20	58%
10	21	59%
11	22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) or 16.5 of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

SECTION 6. IC 33-38-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who becomes permanently disabled **and does not elect to receive a benefit computed under section 16.5 of this chapter** is entitled to an annual benefit that equals the product of:

- (1) the salary that was paid to the participant at the time of separation from service; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
0-12	50%

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1	13	51%
2	14	52%
3	15	53%
4	16	54%
5	17	55%
6	18	56%
7	19	57%
8	20	58%
9	21	59%
10	22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

SECTION 7. IC 33-38-8-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16.5. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.**

(b) Instead of the benefit computed under section 14 or 16 of this chapter, whichever is applicable, a participant who applies to receive an annual retirement benefit after June 30, 2008, may elect to receive a decreased benefit during the participant's lifetime with a benefit payable after the participant's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the participant's option, either a full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(c) The amount of the benefit computed under subsection (b) shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under section 14 or 16 of this chapter, whichever is applicable.

(d) If the participant dies before the participant begins receiving a retirement benefit under this chapter, the designated beneficiary receives the amount, if any, to which the designated beneficiary is entitled as a surviving spouse or child under section 17 or 18 of this chapter, whichever is applicable.

(e) If the designated beneficiary dies before the participant begins receiving a retirement benefit under this chapter, the election is automatically canceled and the participant's retirement benefit shall be computed under section 14 or 16 of this chapter, whichever is applicable.

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(f) Subject to subsection (k), if a participant is receiving a benefit under this section and:

- (1) the participant's designated beneficiary dies;
- (2) the participant and the participant's designated beneficiary are parties in an action for dissolution of marriage in which a final order is issued after the participant's first benefit payment is made; or
- (3) the participant marries after the participant's first benefit payment is made and the participant's designated beneficiary is not the participant's current spouse;

the participant may make the election described in subsection (g).

(g) A participant described in subsection (f) may elect to:

- (1) change the participant's designated beneficiary; and
- (2) receive an actuarially adjusted and recalculated benefit for the remainder of the participant's life and the life of the newly designated beneficiary.

(h) A participant who makes the election described in subsection (g) must indicate whether the newly designated beneficiary's benefit will equal:

- (1) the participant's full recalculated benefit;
- (2) two-thirds ($2/3$) of the participant's recalculated benefit;
- or
- (3) one-half ($1/2$) of the participant's recalculated benefit.

(i) The participant bears the cost of recalculating a benefit under subsection (g), and the cost shall be included in the actuarial adjustment.

(j) Benefits may be recalculated under subsection (g) only to the extent permitted by the Internal Revenue Code and applicable regulations.

(k) A participant may not make an election under subsection (f) if a final order or property settlement in an action for dissolution of marriage:

- (1) prohibits a change in the participant's designated beneficiary; or
- (2) provides a right to a survivor benefit to a person who would be removed as the designated beneficiary.

(l) Except as provided in subsection (f), a participant who:

- (1) applies to receive an annual retirement benefit after June 30, 2008; and
- (2) elects to receive a benefit computed under this section;

may not change the beneficiary designated by the participant after the first day on the month in which the benefit payments are

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1 **scheduled to begin. For purposes of this subsection, it is immaterial**
 2 **whether a benefit check has been sent, received, or negotiated.**

3 SECTION 8. IC 33-38-8-17, AS AMENDED BY P.L.99-2007,
 4 SECTION 199, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Benefits provided under this
 6 section are subject to IC 33-38-6-13 and section 20 of this chapter.

7 (b) The surviving spouse or child or children, as designated by the
 8 participant, of a participant who:

9 (1) dies; and

10 (2) on the date of death:

11 (A) was receiving benefits under this chapter;

12 (B) had completed at least eight (8) years of service and was
 13 in service as a judge;

14 (C) had a permanent disability; or

15 (D) had completed at least eight (8) years of service, was not
 16 still in service as a judge, and was entitled to a future benefit;
 17 are entitled, regardless of the participant's ages, to the benefit
 18 prescribed by subsection (c), **unless the participant has elected to**
 19 **receive a benefit computed under section 16.5 of this chapter.**

20 (c) **If the participant has not elected to receive a benefit**
 21 **computed under section 16.5 of this chapter**, the surviving spouse or
 22 child or children, as designated under subsection (b), are entitled to a
 23 benefit equal to the greater of:

24 (1) fifty percent (50%) of the amount of the retirement benefit the
 25 participant was drawing at the time of death, or to which the
 26 participant would have been entitled had the participant retired
 27 and begun receiving retirement benefits on the date of death, with
 28 reductions as necessary under section 14(d) of this chapter; or

29 (2) the amount determined under the following table:

Year	Amount
July 1, 1995, to	
June 30, 1996	\$10,000
July 1, 1996, to	
June 30, 1997	\$11,000
July 1, 1997, and	
thereafter	\$12,000

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37 (d) The benefit payable to a surviving spouse or surviving child or
 38 children under subsection (c) is subject to the following:

39 (1) A surviving spouse is entitled to receive the benefit for life.

40 (2) The total monthly benefit payable to a surviving child or
 41 children is equal to the same monthly benefit that was to have
 42 been payable to the surviving spouse.

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(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 9. IC 33-38-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) If a participant's spouse does not survive the participant, and there is no child designated and entitled to receive a benefit under section 16.5 or 17 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 17 of this chapter,

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, the dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 17 of this chapter.

(d) If there is more than one (1) dependent child, then the dependent children are entitled to share the benefit equally.

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(e) A dependent child is entitled to receive the child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

SECTION 10. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) As used in this section, "retirement fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was employed in a position that resulted in the person being a member of the retirement fund;

(3) received credited service in the retirement fund for the employment described in subdivision (2), and the credited service is not eligible for service credit under section 22 or 23 of this chapter;

(4) has attained vested status in the retirement fund for the employment described in subdivision (2), but has not begun receiving a benefit from the retirement fund; and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(c) If a person becomes a participant in the judges' 1985 benefit system under this chapter, the person may elect credit for the service described in subsection (b)(3) solely for the purpose of meeting the age plus years of service requirement described in section 13(2)(B) of this chapter, if the following conditions are met:

(1) The prior service was credited under the retirement fund.

(2) The maximum amount of service that a person may elect to transfer under this section is ten (10) years.

(3) The person waives the right to a retirement benefit from the retirement fund based on the service transferred under this section.

(d) If a participant makes an election under subsection (c), the board shall transfer from the retirement fund to the judges' 1985 benefit system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the participant.

(e) The service for which an election is made under this section may not be used as years of service for the purpose of computing a participant's retirement benefit under section 14, 16, or 16.5 of this chapter.

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1 SECTION 11. [EFFECTIVE JULY 1, 2008] **IC 33-38-7-20, as**
2 **added by this act, applies to participants in the judges' 1977**
3 **retirement, disability, and death benefit system who retire after**
4 **June 30, 2008.**

5 SECTION 12. [EFFECTIVE JULY 1, 2008] **IC 33-38-8-25, as**
6 **added by this act, applies to participants in the judges' 1985**
7 **retirement, disability, and death benefit system who retire after**
8 **June 30, 2008.**

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